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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/569,313	03/23/2007	Roger Braun	06-144	7894
34704	7590	11/23/2010	EXAMINER	
BACHMAN & LAPOINTE, P.C. 900 CHAPEL STREET SUITE 1201 NEW HAVEN, CT 06510			AMAKWE, TAMRA L	
			ART UNIT	PAPER NUMBER
			1785	
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			11/23/2010	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/569,313	BRAUN, ROGER	
	<b>Examiner</b>	<b>Art Unit</b>	
	TAMRA L. AMAKWE	1785	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 23 July 2010.
- 2a) This action is **FINAL**.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 20-31,33-37 and 39-49 is/are pending in the application.
- 4a) Of the above claim(s) 50-65 is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 20-31, 33-37 and 39-49 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ .                                    |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ .  | 6) <input type="checkbox"/> Other: _____ .                        |

## DETAILED ACTION

### *Request for Continued Examination*

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114.

Applicant's submission filed on 7/23/10 has been entered. All prior art rejections are withdrawn.

### *Claim Rejections - 35 USC § 103*

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

**Claims 20-30, 35-37, and 39-49 are rejected under 35 U.S.C. 103(a) as being unpatentable over US 4,190,131 to Robinson.**

Re claim: 20: Robinson teaches a wooden material panel (this wooden material panel is not taught by Robinson, but is in the preamble and not given weight because the structure is present) including a surface coating applied at least on a front side. See

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surface coating 8, 6, and 2, FIG. 1. Robinson teaches the surface coating being a multiple layer surface coating (see 8, 6, 2) comprising at least one layer of plastic having a Shore hardness A up to 90 (see Table 1, Example 1 and 3, layers 2 and 8). Robinson teaches wherein the at least one layer of plastic has a thickness between 20 micrometers and 300 micrometers (0.02-0.3 mm) See Table 1, layer 8, Example 9, which falls within Applicant's range.

Robinson doesn't teach wherein the at least one layer of plastic borders on a layer of varnish or paint.

Robinson teaches the last layer of plastic 2 borders a machine. See 4, FIG. 1. It is well known that machines are decorated with a variety of paints and varnishes in order to shine or advertise or to be seen, such as the yellow color that are on the construction bulldozer machines.

Thus, it would have been obvious to one having ordinary skill in the art to have modified the machine layer 4 to include a paint or varnish in order to be decorative and noticed. Adding the laminate of Robinson would reduce the noise from the machine as taught by Robinson in 3:1:225.

Re claim 21: Robinson teaches the Shore hardness A is up to 80. See Table 1, Example 1 and 3, layers 2 and 8.

Re claim 22: Robinson teaches the Shore hardness A is up to 65. See Table 1, Example 1 and 3, layers 2 and 8.

Re claim 23: Robinson teaches the Shore hardness A is up to 50. See Table 1, Example 1 and 3, layers 2 and 8.

Re claim 24: Robinson teaches the Shore hardness A is from 20 to 60. See Table 1, Example 1 and 3, layers 2 and 8.

Re claim 25: Robinson teaches the Shore hardness A is from 30 to 40. See Table 1, Example 1 and 3, layers 2 and 8.

Re claim 26: Robinson doesn't teach the panel is a ceiling panel. However, there are no limitations in the body of the claim to structurally define said panel and thus the teachings of the prior art could function as a ceiling panel.

Further, it would have been obvious to one having ordinary skill in the art to have modified the wooden panel as a ceiling panel to use the panel to provide noise barriers in housing where ceilings are found with success seeing as machine generated noise is louder than the common room-to-room noises in houses. Robinson doesn't limit the panel to just machines see 1:5-10 "other noise-generating sources".

Re claim 27: Robinson doesn't teach the panel is a floor panel.

However, there are no limitations in the body of the claim to structurally define said panel and thus the teachings of the prior art could function as a floor panel.

It would have been obvious to one having ordinary skill in the art to have modified the wooden panel as a floor panel to use the panel to provide noise barriers in housing where floors are found with success seeing as machine generated noise is louder than the common room-to-room noises in houses. Further Robinson doesn't limit the panel to just machines see 1:5-10 "other noise-generating sources".

Re claim 28: Robinson teaches said at least one layer of plastic comprises at least one layer containing at least one thermoplastic material. See Table 1, Example 1 and 3, layers 2 and 8.

Re claim 29: Robinson doesn't teach said at least one layer of plastic comprises at least one layer containing a mixture of plastics including at least one thermoplastic material.

However, Robinson does teach the option of at least two different polymers per each layer in Table 1. Robinson teaches the polymers yield various Shore hardness values that affect noise reduction, and wear and impact resistance. See 2:39-68.

It would have been obvious to one having ordinary skill in the art to mix the two to have a combination of properties in one layer, such as a desired noise transmission and wearing well.

Re claim 30: Robinson teaches one layer of polyolefin polyethylene and polyurethane. See Table 1, Example 1 and 3, layers 2 and 8.

Re claim 33: Robinson doesn't teach the at least one layer of plastic has a thickness from 20 micrometers to 40 micrometers.

However, Robinson does teach thicknesses in this range for the middle layer 6, and to use the particular plastic layers 2 or 8 to have the middle layer thickness would be obvious to interchange seeing as the middle layer is also a polymer. See 2:60-68 and Table 1.

It would have been obvious to one of ordinary skill in the art to produce a thickness as claimed, since it has been held that discovering an optimum value of a result effective variable involves only routine skill in the art. See MPEP § 2144.05 II (B). The thickness affects the degree of noise reduction. One skilled in the art would recognize that a greater thickness would produce and increase in the noise reduction.

Re claim 34: Robinson doesn't teach the at least one layer of plastic has a thickness from 20 micrometers to 70 micrometers.

However, Robinson does teach thicknesses in this range for the middle layer 6, and to use the particular plastic layers 2 or 8 to have the middle layer thickness would be obvious to interchange seeing as the middle layer is also a polymer. See 2:60-68 and Table 1.

It would have been obvious to one of ordinary skill in the art to produce a thickness as claimed, since it has been held that discovering an optimum value of a result effective variable involves only routine skill in the art. See MPEP § 2144.05 II (B). The thickness affects the degree of noise reduction. One skilled in the art would recognize that a greater thickness would produce and increase in the noise reduction.

Re claim 35: Robinson teaches the at least one layer of plastic has a thickness from 20 micrometers to 100 micrometers. See Table 1, Example 1 -9, layer 8.

Re claim 36: Robinson teaches the at least one layer of plastic has a thickness from 20 micrometers to 150 micrometers. See Table 1, Example 1 -9, layer 8.

Re claim 37: Robinson teaches the at least one layer of plastic has a thickness from 20 micrometers to 250 micrometers. See Table 1, Example 1 -9, layer 8.

Re claim 39: Robinson teaches the at least one layer of plastic is an externally exposed layer or a non-externally exposed layer. See layers 8 and 2, respectively, Fig. 1.

Re claim 40: Robinson teaches at least two layers of plastic have been applied onto the wooden material panel. See above. However, the claim is not in the present tense – e.g. “have been applied”.

Re claim 41: Robinson teaches at least one layer of plastic is applied onto a main surface of at least said front side of the wooden material panel. See above.

Re claim 42: Robinson teaches at least two layers of plastic have been applied onto at least one main surface of the wooden material panel. See above. However, the claim is not in the present tense – e.g. “have been applied”.

Re claim 43: Robinson teaches wherein between the at least two layers of plastic at least one layer of another material having a different Shore hardness A is provided. See Example 3.

Re claim 44: Robinson teaches the at least one layer of plastic borders onto a layer of synthetic resin. See 2:60-65, plastic barrier.

Re claim 45 Robinson teaches the layer of synthetic resin is a varnish layer. See 2:60-65, plastic barrier.

Re claim 46: Robinson doesn't teach the at least one layer of plastic borders onto a layer of paint. However, see obvious rationale above to this similar limitation, similar rationale applies.

Re claim 47: Robinson teaches the at least one layer of plastic has been coated onto a layer of bonding agent. See middle layer 6. However, what has happened is past tense.

Re claim 48: Robinson teaches further comprising a layer of bonding agent applied onto the at least one layer of plastic. See middle layer 6.

Re claim 49: Robinson teaches the at least one layer of plastic is elastic (see Rubber, Table 1, layers 8 and 2) and naturally resumes its original shape after a mechanical load is removed which had resulted in a deformation. However, what has happened is past tense.

**Claim 31 is rejected under 35 U.S.C. 103(a) as being unpatentable over US 4,190,131 to Robinson in view of US 6077613 to Gaffigan .**

Re claim 31: Robinson doesn't teach at least one layer of a plastic is at least one of colored and transparent and filled with a mineral or an organic filler.

Gaffigan teaches at least one layer of a plastic is at least one of colored and transparent and filled with a mineral or an organic filler. See polyethylene, carbon black, and magnesium silicate in 4:10-50, 4:50-55.

It would have been obvious to one having ordinary skill in the art to have modified any of the polymer layers of Robinson to add the claimed ingredients because Gaffigan teaches to lubricate, or to impart particular properties to the layer.

#### *Response to Arguments*

Applicant's arguments have been considered but are moot in view of the new ground(s) of rejection.

#### *Conclusion*

Any inquiry concerning this communication or earlier communications from the examiner should be directed to TAMRA L. AMAKWE whose telephone number is (571)272-1519. The examiner can normally be reached on Monday-Friday, 7:00-4:30 p.m., alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mark Ruthkosky can be reached on 571-272-1291. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Mark Ruthkosky/  
Supervisory Patent Examiner, Art Unit 1795

TAMRA L. AMAKWE  
Examiner  
Art Unit 1785